

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

1. On May 29, 2007, Complainant filed on his own behalf a Charge of Discrimination, alleging that Respondent terminated him in retaliation for having previously complained about racial harassment in the workplace.
2. On July 9, 2008, the Department of Human Rights filed a Complaint on behalf of Complainant, alleging that Respondent terminated Complainant in retaliation for having previously complained about racial harassment in the workplace.

3. On September 26, 2008, an Order was entered, which granted Respondent's motion to continue the public hearing scheduled for October 7, 2008, but directed that both parties make themselves available for a telephone conference call for the same date and time as the scheduled public hearing for the purpose of discussing discovery deadlines. The Order also instructed Complainant to provide the Commission with a telephone number where he could be reached during business hours.

4. On October 7, 2008, Respondent appeared at the scheduled time for the telephone conference call. The Complainant, though, failed to provide the Commission with a telephone number as directed in the Order of September 26, 2008, and the Commission attempted unsuccessfully to contact the Complainant at the telephone number listed in the file.

5. On October 7, 2008, an Order was entered which noted Complainant's failure to appear at the scheduled telephone conference and required Complainant to provide the Commission by October 17, 2008, with a telephone number where he could be reached during business hours. The Order also cautioned Complainant that he could not continue to ignore Commission directives, and that if he failed to comply with the Order, he risked the entry of a subsequent order recommending that the matter be dismissed for want of prosecution.

6. On December 23, 2008, an Order was entered, which noted that Complainant had failed to supply the Commission with a telephone number and again warned Complainant that the failure to provide the Commission with a telephone number placed him at risk for the entry of a future order recommending that the matter be dismissed for want of prosecution.

7. On January 6, 2009, Respondent filed a motion to dismiss the instant matter for want of prosecution.

8. Complainant has not filed a response to the motion to dismiss or provided the Commission with a telephone number as of the date of this Recommended Order.

9. All Orders were sent to Complainant's last known address in the file and were not returned by the post office as being undeliverable.

Conclusions of Law

1. A Complaint may be dismissed when a party engages in conduct that unreasonably delays or protracts proceedings. See, 56 Ill Admin Code Ch XI §5300.750(e).

2. The Complainant has unreasonably delayed proceedings by failing to comply with Commission directives that would enable him to participate in scheduled telephone conference calls.

Discussion

Under the Commission's procedural rules, an administrative law judge may recommend to the Commission that a complaint be dismissed where a complainant engages in conduct that unreasonably delays or protracts proceedings. (See, 56 Ill Admin Code CH XI §5300.750(e).) On review, the Commission has upheld the use of such discretion to dismiss complaints in circumstances which are analogous to the case at bar. See, for example, *Ramirez and Wasco Spring Company*, 40 Ill HRC Rep 266 (1988), and *Hariford and Mitsubishi Motor Manufacturing of America*, IHRC, 10629, August 16, 2000.

Here, the circumstances also indicate that Complainant's inaction has served to unreasonably delay these proceedings. Specifically, Complainant did not make an appearance at the initially scheduled telephone conference call and neglected to supply the Commission with a workable telephone number, although he was directed to do so in Orders dated September 26, 2008, October 7, 2008 and December 23, 2008. Indeed, Complainant was specifically warned in Orders dated October 7, 2008 and December

23, 2008, that the failure to supply a telephone number could result in the entry of a future order recommending that the instant case be dismissed for want of prosecution. Complainant's failure either to attend the scheduled telephone conference call or to provide the Commission with a workable telephone number has resulted in an unreasonable delay in this case and renders it difficult for the Commission to take any action with regard to this case except to dismiss it. See, for example, *Foster and Old Republic General Services, Inc.*, IHRC, 5011, November 8, 1993.

Recommendation

Accordingly, I recommend that the Complaint and the underlying Charge of Discrimination of Robin Chamberlain be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL R. ROBINSON
Administrative Law Judge
Administrative Law Section

ENTERED THE 12TH DAY OF MAY, 2009